

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ROYLAND RODRIGUEZ,

Plaintiff,

v.

MARSHA JOHNS et al.,

Defendants.

3:15-cv-00073-RCJ-WGC

ORDER

This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. On August 26, 2015, this Court issued an order denying the application to proceed *in forma pauperis* and directed Plaintiff to file the full filing fee of \$400.00 within 28 days from the date of that order. (ECF No. 7 at 2). The 28-day period has now expired, and Plaintiff has not paid the full filing fee or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986)

1 (dismissal for lack of prosecution and failure to comply with local rules).

2 In determining whether to dismiss an action for lack of prosecution, failure to obey a
3 court order, or failure to comply with local rules, the court must consider several factors: (1)
4 the public's interest in expeditious resolution of litigation; (2) the court's need to manage its
5 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
6 cases on their merits; and (5) the availability of less drastic alternatives. *Thompson*, 782 F.2d
7 at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-
8 61; *Ghazali*, 46 F.3d at 53.

9 In the instant case, the Court finds that the first two factors, the public's interest in
10 expeditiously resolving this litigation and the Court's interest in managing the docket, weigh
11 in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
12 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay in
13 filing a pleading ordered by the court or prosecuting an action. *See Anderson v. Air West*, 542
14 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy favoring disposition of cases
15 on their merits – is greatly outweighed by the factors in favor of dismissal discussed herein.
16 Finally, a court's warning to a party that his failure to obey the court's order will result in
17 dismissal satisfies the "consideration of alternatives" requirement. *Ferdik*, 963 F.2d at 1262;
18 *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d at 1424. The Court's order requiring
19 Plaintiff to pay the full filing fee within 28 days expressly stated: "IT IS FURTHER ORDERED
20 that Plaintiff shall pay the filing fee within twenty-eight (28) days of the entry of this Order into
21 the electronic docket or the Court may order the Clerk to close the case without further notice."
22 (ECF No. 7 at 2). Thus, Plaintiff had adequate warning that dismissal would result from his
23 noncompliance with the Court's order to pay the full filing fee within 28 days.

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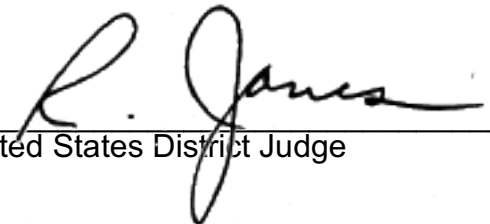
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1 It is therefore ordered that this action is dismissed without prejudice based on Plaintiff's
2 failure to pay the full filing fee in compliance with this Court's August 26, 2015, order.

3 It is further ordered that the Clerk of Court shall enter judgment accordingly.

4 DATED: This 13th day of November, 2015.

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8 United States District Judge
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